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possession could be determined in an action for partition, *Cave v. Holford*, 3 Ves. Jr. 656; *Nichols v. Nichols*, 28 Vt. 228; and if the question of title be purely legal, in absence of statute, a court of equity will relegate the party to his remedy at law, *Pierce v. Rollins*, 83 Me. 172, either dismissing the bill, *Riverview Cemetery Co. v. Turner*, 24 N. J. Eq. 18, or, *ex gratia*, for a reasonable time, *Nost v. Simpson*, 78 Me. 142, stay proceedings until complainant establishes his title at law, *Fenton v. Steere*, 76 Mich. 405; *Hardy v. Mills*, 35 Wis. 141; *Chapin v. Sears*, 18 Fed. 814.

PRINCIPAL AND AGENT—FRAUD OF AGENT—SCOPE OF EMPLOYMENT—LIABILITY OF PRINCIPAL.—WILMERDING ET AL. V. POSTAL TELEGRAPH CABLE CO., 103 N. Y. SUPP. 594.—*Held*, that, where the messenger of a telegraph company, authorized to present memorandum slips of telegrams sent, and receive payment of the charges due thereon, presented a customer fictitious memorandum slips, which were paid by him and the money retained by the messenger, the telegraph company was liable to the customer for the money so paid, though the customer had a letter-press copybook of telegrams, and could have ascertained that he was being defrauded by a comparison of it with the memorandum slips presented. Laughlin and Scott, JJ., *dissenting*.

By the weight of authority the principal is liable for the misconduct of his agent in the apparent scope of his authority, *Huntley v. Mathias*, 9 N. C. 101; *McCord v. W. U. T. Co.*, 39 Minn. 181. Having once clothed him with the power to perform certain acts, the principal is responsible for the wrongs committed in that kind of work, *Haskell v. Starbird*, 152 Mass. 117; *Bank of Batavia v. N. Y. L. E. & W. R. Co.*, 106 N. Y. 195. And his responsibility is based on the fact that he has put it within the power of the agent to defraud innocent third persons. *Toome v. Parkersburg Branch R.*, 39 Md. 36. But the doctrine is subject to the qualification that the third person must act in good faith, *Allen v. So. Boston R.*, 150 Mass. 200, and prudently, *Farrington v. Same*, 150 Mass. 406. The fact that the third person by the exercise of proper diligence might have avoided the error is no defense. *Union National Bank v. Sixth National Bank*, 43 N. Y. 455. Customers have a right to assume that the agent is honest and are not required to particularly inspect for the purpose of discovering fraud. *Birkett v. Postal Telegraph Co.*, 94 N. Y. Supp. 918.

RAILROADS—CONSTRUCTION—OBSTRUCTION OF VIEW—NEGLIGENCE.—COWLES V. NEW YORK, N. H. & H. R. R. CO., 66 ATL. 1020 (CONN.).—*Held*, the mere neglect of a railroad company to cut down trees on its right of way in the vicinity of a grade crossing is not in itself actionable negligence in the absence of any statute requiring it to keep its right of way free from unnecessary obstructions to a view of the tracks by persons using an adjacent highway, although it may be considered with other circumstances in determining whether the company exercised care in the operation of its car at a particular time.

RAPE—EVIDENCE—COMPLAINT OF FEMALE.—PEOPLE V. BIANCHINO, 91 PAC. 112 (CAL.). In a prosecution for rape of a five-year old girl, committed toward the latter part of January, it appeared that the prosecutrix was examined on the 5th of February by a physician, who, a few days later discovered that prosecutrix was infected with a venereal disease.—*Held*, that evidence of complaints of the injury made by prosecutrix shortly before and after February 5th was admissible.